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REMARKS

This supplemental amendment under 37 CFR §1.116 is submitted as a result of a telephone interview with Examiner Doroshenk on July 7, 2004. In the course of the telephone interview, the Examiner pointed out that the original amendment filed June 3, 2004 could not be entered because new independent claim 23, submitted to place allowable claim 12 in independent form, called for the preliminary reactor to be operable as a liquid phase reactor. However, original dependent claim 12, by virtue of its dependence from original claim 11, called for the preliminary reactor to be arranged to be operable in the gas phase.

By this Supplemental Amendment under 37 CFR §1.116, new independent claim 23 has been corrected and specifies that the preliminary reactor is arranged to be operable as a gas phase reactor.

Other than the correction of the error found in dependent claim 23 (and an editorial correction in claim 17 to indicate the replacement of “that” found in line 4 with “than”), this amendment and the remarks traversing the rejections found in the final rejection is identical to the amendment previously filed on June 3, 2004.

This application has been carefully reviewed in light of the final rejection of April 6, 2004. The indication of allowability of claims 12, 15 and 16 subject to presentation in independent form is acknowledged with appreciation. By this amendment, claim 12 has been cancelled and presented in independent form as claim 23. In addition, claim 15 has been cancelled and presented in independent form as claim 24 to include the subject matter of claims 11, 14 and 15. Dependent claim 16 has been amended to make it dependent from claim 24. In addition, claims 11 and 17 have been amended to provide, with respect to the waste gas outlet, that the releasing of the waste gas is to provide for removal of the waste gas. While, as discussed below, applicant would respectfully submit that the independent claims cannot reasonably be construed to provide for an outlet

providing for the recycling of unreacted monomer, the foregoing amendment further emphasizes that the released waste gases are removed from the preliminary reactor, and not recycled as disclosed in the patent to Platz.

The rejection of claims 11, 13, 14, 17, 19 and 20 under 35 U.S.C. §102 as anticipated by Platz is respectfully traversed. The linchpin of the §102 rejection is based upon the construction of applicant's independent claims 11 and 17 in calling for an "outlet for releasing waste gases from the preliminary reactor" to be interpreted as reading on the recycle system of reactor 10 of Platz in which unreacted monomer and polymer particles are not released from the reactor, but instead are recycled back to the reactor. In regard to the Examiner's comments respecting interpretation of the claims, attention is respectfully invited to MPEP §2111, which states "The pending claims must be given their broadest reasonable interpretation consistent with the specification." Applicant would respectfully submit that the interpretation of applicant's claim language as quoted above to mean a recycle system is not only at variance with the meaning of the term "release," it is clearly not consistent with this term when the claim is construed in a manner consistent with applicant's specification. Applicant's specification (see, for example, page 7, lines 10-23) makes clear that outlet port 16 provides for the release or removal of waste gases from the reactor 12. The term "release," cannot in accordance with the accepted definition of the term, be construed as meaning to recycle. Attention in this regard is invited to the definition of release as found in Webster's Ninth New Collegiate Dictionary, p. 994, a copy of which is attached.

It further will be noted that the recycle system in Platz does not provide an outlet for the release of waste gases from the reactor 10. The gases recycled in Platz are simply unreacted monomer; they are not "waste gases" as recited in applicant's claims. It would clearly not be reasonable to interpret applicant's claims in light of the specification (see, for example, page 5, lines 16-21) to construe the term "waste gases" in applicant's claims to mean unreacted monomer.

It is respectfully submitted that when applicant's claims are given their broadest reasonable interpretation as required in MPEP §2111, the recitation of an outlet for releasing waste gases cannot be reasonably construed to mean the inlet to a recycle system in which unreacted monomer is recycled back to a polymerization reactor.

Notwithstanding the foregoing remarks, this amendment provides clarifying language in claims 11 and 17 by the further recitation that the outlet provides for removal of the waste gases from the preliminary reactor. This is believed to be clearly consistent with the original recitation of an outlet for releasing the waste gases and does not provide any further issues requiring further search or consideration. Further entry of this amendment is appropriate under 37 CFR §1.116(c) since the concept that recycle of gases back to the reactor in Platz is the same as releasing gases from the reactor was first raised in the Final Rejection. Accordingly, it is respectfully requested that this amendment be entered under the provisions of 37 CFR §1.116.

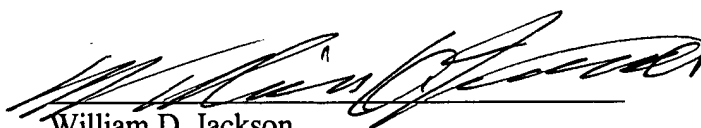
The rejection of claims 17-22 under the first paragraph of 35 U.S.C. §112 as being non-enabling is respectfully traversed. *In re Fisher* cited in the Final Rejection does not support the proposition that in non-chemical cases of the type involved here, a narrow scope of enablement should be observed. In fact, *in re Fisher* specifically states at 166 USPQ p. 24, "In cases involving predictable factors, such as mechanical or electrical elements, a single embodiment provides broad enablement in the sense that once imagined, other embodiments can be made without difficulty and the performance characteristics predicted by resort to known scientific laws." Applicant's invention involves use of a preliminary reactor and a main reactor, which, by their very nature are of different configurations. The use of preliminary reactors or "baby" reactors as described in applicant's specification to preliminarily treat the catalyst is clearly enabled by applicant's disclosure. The patent to Platz does not involve a preliminary reactor and a main polymerization reactor, but instead involves two identical batch-type main polymerization reactors. The language chosen in applicant's

claims clearly distinguishes applicant's invention from the system disclosed in Platz. It is respectfully submitted that one of ordinary skill in the art could, immediately after reading applicant's disclosure, arrive at various different reactor configurations to satisfy the requirement of a reactor for preliminary treatment of a catalyst as involved in applicant's invention.

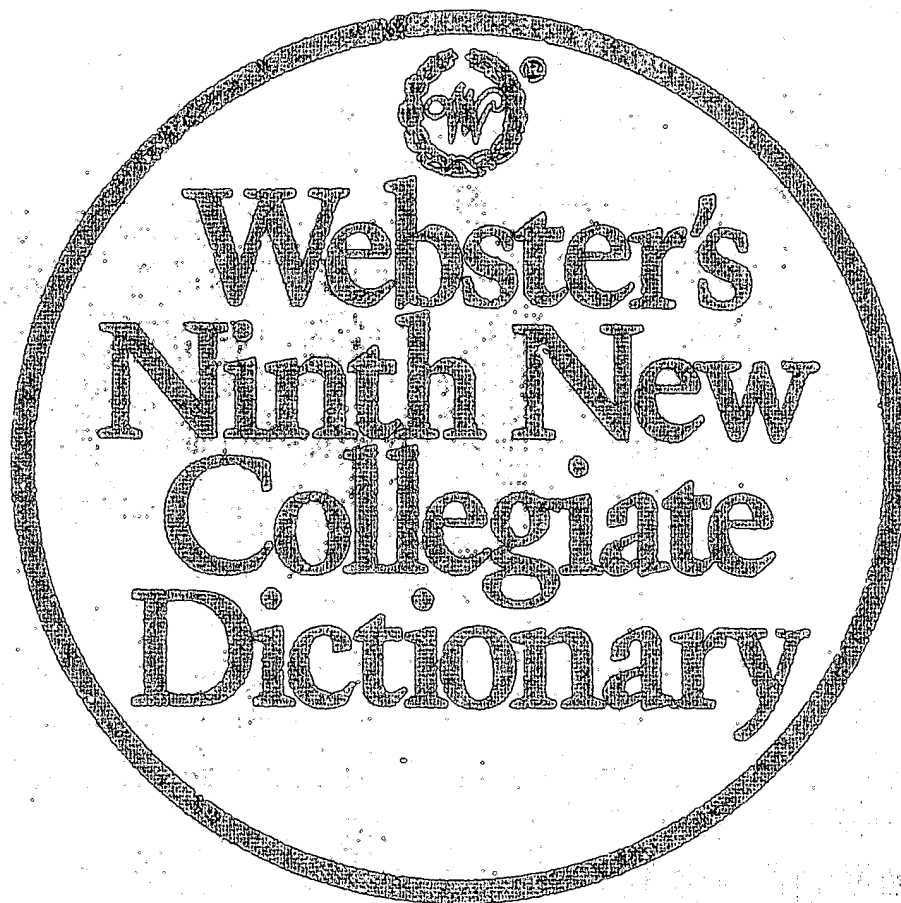
With respect to applicant's claims 13 and 19, it is respectfully submitted that the reactor 40 of Platz is not a loop-type reactor as called for in these claims. As described in applicant's disclosure, loop-type reactors are continuous polymerization reactors in which the polymerization reaction occurs as the polymerization medium is continuously circulated through the reactor. Such reactors are well known in the art as disclosed, for example, in U.S. Patent No. 4,767,735 to Ewen. The reactors disclosed in Platz are not loop-type reactors as the type disclosed in U.S. Patent No. 4,767,735 to Ewen, but instead are fluidized bed reactors in which polymerization occurs in a standing column with product withdrawn from near the bottom of the column. The "loop" formed by elements 40, 50, 54, 56, 58, 60 and 62 of Platz involves the recirculation of monomer and gas and the removal of a particulate material from the gas for recycle and return to the batch-type reactor. However, the reactor 40 is not a loop-type reactor of the type disclosed and claimed in applicant's invention.

The Commissioner is authorized to charge any fee required in connection with the submission of this document to the Locke Liddell & Sapp LLP deposit account no. 12-1781.

Respectfully submitted,


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Library of Congress Cataloging in Publication Data
Main entry under title:

Webster's ninth new collegiate dictionary.

Includes index.

I. English language—Dictionaries. I. Merriam-Webster Inc.

PE1628.W5638 1989 423 88-8335

ISBN 0-87779-508-8

ISBN 0-87779-509-6 (indexed)

ISBN 0-87779-510-X (deluxe)

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